

# Calendar No. 1294

77TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
No. 1251

## MRS. MARILLA C. GRAY

APRIL 3 (legislative day, MARCH 30), 1942.—Ordered to be printed

Mr. ELLENDER, from the Committee on Claims, submitted the following

### REPORT

[To accompany S. 2190]

The Committee on Claims, to whom was referred the bill (S. 2190) for the relief of Mrs. Marilla C. Gray, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The bill provides for the payment of \$4,298.95 to Mrs. Marilla C. Gray, of Dadeville, Ala., as successor in interest to the Dadeville Cotton Oil Co., of Dadeville, Ala., in full satisfaction of all claims against the United States for compensation for the production of cotton linters produced by said company during the period January 1, 1919, to July 31, 1919, inclusive, pursuant to a contract with duPont American Industries, agent of the United States Ordnance Department.

This claim, together with a number of other cotton linter claims, was referred to the Court of Claims by Senate Resolution No. 448, Sixty-seventh Congress. After clearing up the legal questions involved the court rendered a decision in the Hazelhurst Oil Mill and Fertilizer Co. and the Farmers Ginners Cotton Mill Co. about 1930. The court found they were legally entitled to recover and judgments have been entered in a large number of cases. The only question remaining in each case was the establishment by the claimant of the amount of seed crushed between January 1, 1919, and July 31, 1919. It appears from the record that the Dadeville Cotton Oil Co. crushed 635 tons of seed between January 1, 1919, and July 31, 1919, and that it is entitled to be paid for at the rate of \$6.77 per ton which amounts to \$4,298.95.

The claim of the Dadeville Cotton Oil Co. was, however, dismissed by the Court of Claims for want of prosecution. The explanation given as to why the case was dismissed is as follows:

About the year of 1932, one C. T. Cox, through a legal proceeding, \* \* \* purchased all of the physical assets of the Dadeville Cotton Oil Co. Despite the fact that Cox had purchased only the physical assets of the Dadeville Cotton Oil Co., he nevertheless laid claim to some of its intangible assets, including the

linter claim. Mr. Cox at the time of the purchase of the physical assets of the Dadeville Cotton Oil Co. went into possession of and had the complete custody and control of all the books, papers, and records of the oil company, and, since he was laying claim to the linter claim, he declined consistently to permit any of these records to be placed in the hands of Mr. Gray to be used as proof of this claim. Meanwhile, the linter claim in the Court of Claims was continuously being called for trial.

On October 31, 1935, the Dadeville Cotton Oil Co. filed its bill in the Chancery Court of Tallapoosa County, Ala., to enjoin Cox from asserting any claim to the linter claim and for a final adjudication of the fact that this linter claim did not pass to Cox by reason of his purchase of the physical assets but that the title thereto was still in Dadeville Cotton Oil Co.

On January 27, 1937, the Circuit Court of Tallapoosa County entered a final decree in this cause in favor of Dadeville Cotton Oil Co. holding that Cox had no right, title or interest in the linter claim and perpetually enjoining him from asserting such right. No appeal was taken from this decree, and the time for reviewing this decree has elapsed.

After the adjudication on January 27, 1937, the Dadeville Cotton Oil Co. tried to get back from Cox its books, records, and papers but was unable to do so, Cox claimed that they had been lost or destroyed. As a result of the delay caused by the litigation of this lawsuit, and by reason of the inability of the Dadeville Cotton Oil Co. to gain access to its books and records it was unable to make the proof necessary before the Court of Claims in order to substantiate its linter claim, and although still diligently attempting to patch together the necessary proof from circumstantial and disconnected sources, the claim in the Court of Claims was finally dismissed on December 20, 1939, for want of prosecution.

From the evidence submitted your committee is satisfied as to the amount carried in the bill. The question as to the right of Mrs. Gray to receive payment, as successor in interest to the Dadeville Cotton Oil Co., has been determined by a decision of the Circuit Court of Tallapoosa County, Ala., in equity, entered on the 18th day of March 1942, in which it is—

ordered, adjudged, and decreed that the plaintiff, Mrs. Marilla C. Gray is the owner of and is the successor in interest of the defendant in and to that certain linter claim which the defendant Dadeville Cotton Oil Co., a corporation, heretofore had against the Government of the United States of America; said claim being for compensation for the production of cotton linters produced by said defendant during the period January 1 to July 31, 1919, inclusive, pursuant to a contract with duPont American Industries, agent of the United States Ordnance Department. \* \* \*

The following communications are appended hereto and made a part of this report.

RICHARD H. COCKE,  
*Alexander City, Ala., September 15, 1941.*

Hon. JOE STARNES,  
*Washington, D. C.*

MY DEAR MAJOR: Mr. William Gray, of Dadeville, advises me that you will introduce in the House a bill for the relief of the Dadeville Cotton Oil Co. with respect to its claim against the United States Government to be compensated for certain linters produced under a contract with the Government between January 1 and July 31, 1919, and agreed to be paid for by the Government at a certain price, and never paid for.

Mr. Gray desires me to write you this letter outlining the history of these linter claims and that of the particular claim of Dadeville Cotton Oil Co., in order that you may have before you in memorandum form a digest of the voluminous correspondence and documents in Mr. Gray's file relating to this matter. Therefore, with this in view I shall now proceed to outline the general history of these linter claims and particularly the claim of the Dadeville Cotton Oil Co. so that you may see its present status. Also, attached to this letter are such affidavits and exhibits as we have been able to obtain which tend to prove the amount of the claim.

## GENERAL HISTORY OF THE COTTON LINTER CLAIMS

On April 6, 1917, the United States declared war against the Imperial German Government. And on December 17, 1917, war was declared against the Imperial and Royal Austro-Hungarian Government.

On March 4, 1918, the President created the War Industries Board.

On August 10, 1917, Congress passed what is known as the Food and Fuel Act (Public Act No. 41, 46th Cong.).

On August 10, 1917, the President issued an Executive order providing for the organization of the United States Food Administration, and from time to time thereafter issued various Executive orders to bring under license control dealers in certain commodities.

By virtue of said act of Congress and various Executive orders and proclamations the Food Administration prescribed the conditions under which manufacturers, distributors, and dealers of cottonseed and the products manufactured therefrom might operate. By its power to grant or withdraw licenses the Food Administration took control of the cottonseed industry of the entire country. By Presidential proclamation distributors, manufacturers, etc., were placed under licenses on January 1, 1917, and continued to operate thereafter under licenses until said regulation was rescinded.

The Dadeville Cotton Oil Co. operated under license No. G-13572 and continued to operate under such license until said Executive order was rescinded.

After the United States entered the war its requirements for linters for munitions increased the demand for linters. In the spring of 1918 it became apparent to the Government that the munition needs of the Government were absolutely dependent upon increased production of munition linters during the crushing season beginning August 1, 1918, and ending July 31, 1919.

On April 4, 1918, what was known as the Cotton and Cotton Linters Section of the War Industries Board decided that it was not only necessary to increase the production of cotton linters, but to limit production solely to linters of a munition type.

On March 14, 1918, the President appointed a price-fixing committee of the War Industries Board, made of a chairman, a representative of the War Department, a representative of the Navy Department, a representative of the Fuel Administration, a representative of the Tariff Commission, a representative of the Federal Trade Commission, the labor representative of the War Industries Board, and the Chairman of the War Industries Board, ex officio. Thereafter, all manufacturers, distributors, and dealers in cotton linters were under the control and direction of the War Industries Board and of this price-fixing committee.

On May 1, 1918, the Cotton Linter Section of the War Industries Board met in Washington in conjunction with the cottonseed crushing industry. At this meeting the cotton seed crushers were advised that the War Industries Board had decided that all cotton linters must thereafter be cut of the munition type, and that all such linters must be sold to the United States through Dupont American Industries, Inc., and no other person, firm, or corporation. The crushers were also advised that the United States would purchase all munition linters which the producers then had on hand, and all that were to be produced thereafter during the remainder of the 1917-18 season; and that the United States would purchase all munition linters produced during the season beginning August 1, 1918, and ending July 31, 1919; and that the price which would be paid for such linters would be \$0.0467 per pound, or \$4.67 per hundredweight f. o. b. mills point of production.

On May 2, 1918, the War Industries Board notified all cottonseed crushers in the entire country, including the Dadeville Cotton Oil Co., to the effect that the price of cotton linters had been fixed at a price of \$4.67 per 100 pounds, f. o. b. point of production, and that such price would apply to linters produced during the next season, to wit, August 1, 1918, to July 31, 1919. After receiving the notification of the War Industries Board, and relying upon its representation that the United States would take all munition linters produced subsequent to May 2, 1918, up to and including July 31, 1919, the cotton-oil mills began a rehabilitation of their plants and installed new machinery and equipment suitable to cut and produce linters of the munition type. Beginning May 2, 1918, the Dadeville Cotton Oil Co. cut all of its linters of the munition type and sold them only through the Dupont American Industries, Inc., which acted as purchasing agent of the Procurement Division of the United States Ordnance Department.

On August 1, 1918, for the purpose of carrying into effect the program of the Government with respect to linters, a cotton linter pool was formed to take all



linters in the hands of the crushers as of May 1, 1918, and for the further purpose of purchasing and distributing all cotton linters to be produced during the crushing season beginning August 1, 1918, and ending July 31, 1919. The pool consisted of various departments and boards of the Government. The Dupont American Industries, Inc., was appointed sole purchasing agent for the Ordnance Department, and all cotton linters of the country were turned directly to war use and all cottonseed crushers were compelled to operate under the direction and instructions of the Ordnance Department with respect to production of linters.

On or about September 2, 1918, Dupont American Industries, Inc., acting as agent for the United States Government, sent the Dadeville Cotton Oil Co., as well as to all other producers engaged in crushing seed, a printed form of contract with directions to execute the same. By the terms of this contract the United States of America, acting by and through Dupont American Industries, Inc., agreed to purchase from Dadeville Cotton Oil Co. 300 bales of cotton linters, being approximately 150,000 pounds, at a price of \$.0467 per pound, being the price fixed by the War Industries Board on May 2, 1918. The quantity of linters stated in the contract was estimated to be all of the cotton linters which would be produced by the petitioner during the crushing season beginning August 1, 1918, and ending July 31, 1919.

After the signing of this printed contract the Dadeville Cotton Oil Co., along with the other producers, continued to produce munition cotton linters under the terms of the agreement until ordered to cease.

By the terms of this printed agreement the agreement was to continue until canceled "upon the termination of the present war."

On July 1, 1918, the Food Administration, in order to stabilize the price of seed fixed a price which required cottonseed crushers to pay for cottonseed at \$70 per ton. The Dadeville Cotton Oil Co., along with the other crushers, was compelled to pay this price.

On September 7, 1918, the Food Administration further fixed the selling price of products derived from crushing cottonseed and in this order fixed the sale price of linters to be bought by the Government at \$6.77 per ton of seed crushed during the 1918-19 season.

It is upon this figure of \$6.77 per ton of seed crushed during the period January 1, 1919, to and including July 31, 1919, that all these linters claims are based.

On November 11, 1918, an armistice was signed between the United States and the Imperial German Government, whereby hostilities were suspended. The armistice was a truce and not a termination of the war, but merely a suspension of military operations by mutual agreement between the belligerents pending negotiations of a treaty of peace. The United States continued to be at war for several months after the signing of the armistice.

On November 28, 1918, the War Industries Board notified the cottonseed crusher industry, including the Dadeville Cotton Oil Co., to discontinue the cutting of munition linters and to change the cut of their linters to the commercial grade.

The cotton crushers being in doubt as to what different and final arrangements the Government would make as to discharging its obligations organized a committee known as the linter committee. The linter committee had numerous discussions with the Ordnance Department and other Government officials. The Ordnance Department took the position that there was a "termination of the present war" by reason of the armistice. Various propositions were made back and forth between the Government and the crushers with respect to settling the linter contracts but no agreement was reached.

On December 21, 1918, the War Industries Board ceased to function and was disbanded. A few days prior thereto the linter committee had been notified that the War Industries Board would no longer function after December 21, 1918, and that all negotiations for settlement of the obligations of the Government must in the future be carried on with the United States Ordnance Department. Various negotiations were then undertaken between the linter committee and officials of the Ordnance Department, with the final result that on December 30, 1918, the linter committee, together with numerous others engaged in the cottonseed crushing industry met in Washington. On that day the Ordnance Department made a final proposition. This proposition was to the effect that the United States would take all munition linters which had been cut prior to December 31, 1918, and then in the hands of the crushers, at the price stated in the printed agreement, which would net the crushers \$6.77 per ton of seed crushed; that the cotton crushers after January 1, 1919, would cut no munition linters and would cut only commercial linters which they were permitted to sell



to other purchasers; that the United States would take from the crushers whatever linters remained on hand and unsold on July 31, 1919, provided the total quantity would not exceed 150,000 bales, the price estimated to net crushers \$6.77 per ton seed crushed.

The linter committee was notified about 5 o'clock in the afternoon of this day that it would be given until 7 o'clock that evening to accept this proposition, and that in case it declined to execute a modification contract in accordance with this proposition, notice of cancellation would be wired the mills by the Ordnance Department at 7 p. m. sharp on that day. By reason of the fact that an unconditional cancellation of the Government contracts would have bankrupted the entire cotton-producing area, including hundreds of small banks, the linter committee accepted the proposition of the Ordnance Department for settlement. The linter committee did this, however, under protest, the committee taking the position that the acceptance of the officials of the Government constituted legal duress and that the parties were not on equal terms.

On December 31, 1918, the Ordnance Department canceled by telegram all of these contracts with the United States, and the various crushers, under protest entered into the proposed settlement contract.

Under the settlement contract, which the crushers claim they were forced to sign under duress, the United States made no provision for paying for any linters produced from seed crushed during the period from January 1 to August 1, 1919, the Dadeville Cotton Oil Co. had on hand 130 bales of United States linters as of July 31, 1919, representing the product of 635 tons of seed crushed, between January 1 and July 31, 1919, and claimed that the Government should pay it at the rate of \$6.77 per ton seed crushed under its contract with the Government.

The linter committee, and the mills which it represented brought legal action to have the modification agreement set aside on the ground that it was secured under duress.

In the test case of Hazelhurst Oil Mill & Fertilizer Co., decided on June 2, 1930, the Court of Claims of the United States decided that the modification agreement with the Ordnance Department was void, because it had been made under duress, and that the Government was liable for actual loss which the mills had suffered thereby.

Previous to this decision the Dadeville Cotton Oil Co., along with other mills, had on April 16, 1922, employed counsel to prosecute its claim against the Government.

On February 5, 1923, Senator Robinson introduced a bill for the relief of Rose City Cotton Oil Mill and others, including Dadeville Cotton Oil Co., which was by inadvertence erroneously denominated as "Dadeville Oil & Gin Co.," Dadeville, Ala. This wrongful designation of corporation name is of no moment, because it is shown that the only oil company doing business in Dadeville was Dadeville Cotton Oil Co. and that there never was in existence any person, firm, or corporation known as Dadeville Oil Gin Co. Furthermore the formal claim filed in the Court of Claims was filed in the proper corporate name, to wit: "Dadeville Cotton Oil Co."

All these linter cases were referred to the Court of Claims in order that each might be investigated upon its merits. After the decision in the *Hazelhurst Oil Mill & Fertilizer Co. v. United States*, 70 Court of Claims 334, and the case of *Farmers and Ginners Cotton Mill Company v. United States*, 76 Court of Claims 294, both of which were decided in favor of the claimants, no question any longer existed as to the right of each of the several claimants to compensation. All legal questions were gotten out of the way by the decisions in these two cases. The only question remaining in each case pending in the Court of Claims was the establishment by the claimant of the amount of seed crushed between January 1, 1919, and July 31, 1919.

#### HISTORY OF DADEVILLE COTTON OIL MILL CLAIM

This claim, along with the other cotton-linter claims, was referred to the Court of Claims by virtue of Senator Robinson's resolution, Senate Resolution No. 448, of the Sixty-seventh Congress, dated February 24, 1923, and by Senate bill No. 479, of the Sixty-seventh Congress, fourth session, dated February 5, 1923.

The claim of the Dadeville Cotton Oil Co., along with many others, was handled by Messrs. Bennet, Shand & McGowan, attorneys at law, 1207 Liberty Life Building, Columbia, S. C. This case was referred to the Court of Claims, along with others, and pended there for many years, awaiting the clearing up of the legal questions involved. These were not finally cleared until the decision in the

*Hazelhurst Oil Mill & Fertilizer Co. and Farmers Ginners Cotton Mill Co.* cases about 1930. Ultimately, on December 20, 1937, the claim of Dadeville Cotton Oil Co. was dismissed out of the Court of Claims, for want of prosecution, under these circumstances:

About the year of 1932, one C. T. Cox, through a legal proceeding, the details of which are not necessary to go into here, purchased all of the physical assets of the Dadeville Cotton Oil Co. Despite the fact that Cox had purchased only the physical assets of the Dadeville Cotton Oil Co., he nevertheless laid claim to some of its intangible assets, including the linter claim. Mr. Cox at the time of the purchase of the physical assets of the Dadeville Cotton Oil Co., went into possession of and had the complete custody and control of all the books, papers, and records of the oil company, and, since he was laying claim to the linter claim, he declined consistently to permit any of these records to be placed in the hands of Mr. Gray to be used as proof of this claim. Meanwhile, the linter claim in the Court of Claims was continuously being called for trial.

On October 31, 1935, the Dadeville Cotton Oil Co. filed its bill in the Chancery Court of Tallapoosa County, Ala., to enjoin Cox from asserting any claim to the linter claim and for a final adjudication of the fact that this linter claim did not pass to Cox by reason of his purchase of the physical assets but that the title thereto was still in Dadeville Cotton Oil Co.

On January 27, 1937, the Circuit Court of Tallapoosa County entered a final decree in this cause in favor of Dadeville Cotton Oil Co., holding that Cox had no right, title, or interest in the linter claim and perpetually enjoining him from asserting such right. No appeal was taken from this decree, and the time for reviewing this decree has elapsed.

After the adjudication on January 27, 1937, the Dadeville Cotton Oil Co. tried to get back from Cox its books, records, and papers, but was unable to do so; Cox claimed that they had been lost or destroyed. As a result of the delay caused by the litigation of this lawsuit, and by reason of the inability of the Dadeville Cotton Oil Co. to gain access to its books and records, it was unable to make the proof necessary before the Court of Claims in order to substantiate its linter claim, and although still diligently attempting to patch together the necessary proof from circumstantial and disconnected sources, the claim in the Court of Claims was finally dismissed on December 29, 1939, for want of prosecution.

According to Mr. Gray, there is no question of the fact that the Dadeville Cotton Oil Co. crushed 635 tons of seed between January 1, and July 31, 1919, and that it is entitled to be paid for it at the rate of \$6.77 per ton, which amounts to \$4,298.95. The difficulty which he is up against is being able to show this fact by any written records. The only way he can show it is by secondary evidence, by reason of the fact that the primary evidence, as shown by the affidavits hereto attached, has been either lost or destroyed.

Such being the case, he is submitting, by way of a predicate to various affidavits, the affidavit of himself as president of the Dadeville Cotton Oil Co. during the entire controversy with Cox and up to the time of the dismissal of the case in the Court of Claims, to the effect that the records of the Dadeville Cotton Oil Co., which would have proved the linter claim, were unavailable for the reason stated in his affidavit.

Also, submitted is the affidavit of Roy C. Oliver, the present judge of probate of Tallapoosa County, to the effect that W. C. Stone, who was secretary and treasurer of the Dadeville Cotton Oil Co., and who signed the verification of the statement of claim, which was formally filed with the Government for the linter claim, is dead, and that he was a person of known integrity and undisputed good character in the community. In the claim which Mr. Stone verified there appears, of course, the statement that the Dadeville Cotton Oil Co. crushed 635 tons of seed during the period of January 1 to July 31, 1919, inclusive, and had on hand as a result of such crushing 130 bales of United States linters as of July 31, 1919.

Attached hereto also is the affidavit of H. I. Bradford to the effect that he knows of his own personal knowledge that the Dadeville Cotton Oil Co. crushed as much as 635 tons of seed during the period aforesaid, as well as to other matters.

Also, attached hereto is the affidavit of Walter Strother, who was bookkeeper of the Dadeville Cotton Oil Co. from January 1 to July 31, 1919, inclusive, and who is now one of the county commissioners, showing the amount of cottonseed purchased in the statement as of March 1, 1919, and the number of gallons of crude oil sales and the number of gallons of crude oil on hand as of that date, and his statement is identified and attached to his affidavit as an exhibit.

In addition several other affidavits substantiating the claim are submitted.

When you have had the opportunity of going into the matters presented in this letter and in the attached affidavits, I shall be glad if you will advise me as to whether you desire any further affidavits. No doubt certain things will occur to you as you proceed and I shall be glad to furnish whatever additional information I can.

With best wishes, I am

Sincerely yours,

RICHARD H. COCKE.

STATE OF ALABAMA,  
*County of Tallapoosa:*

Before me, the undersigned authority, in and for said county in said State, personally appeared William Gray, who being by me first duly sworn, deposes and says as follows:

My name is William Gray. I am 44 years of age and am a resident and citizen of the town of Dadeville, in the county of Tallapoosa, State of Alabama. I have resided there all my life. I have personal knowledge of the facts herein-after set forth in this affidavit.

The Dadeville Cotton Oil Co. was a corporation organized and existing under the laws of the State of Alabama, and having its principal office and place of business in the town of Dadeville in said county and State. I was the president of said corporation from the period beginning from the year of 1925 up to and including December 20, 1937. During my incumbency of the office of president, and up until sometime in the year of 1932 when the physical assets of the Dadeville Cotton Oil Co. were purchased by one C. T. Cox, I was in the custody and control and familiar with the books and records of said corporation which showed entries and other data proving conclusively that during the period from January 1, 1919, to and including July 31, 1919, the Dadeville Cotton Oil Co. crushed 635 tons of cottonseed. During the year of 1932 the physical assets of the Dadeville Cotton Oil Co. were sold under a court decree and purchased by one C. T. Cox. C. T. Cox as of the date of his purchase went into possession, custody and control of all the books, papers, and records of the Dadeville Cotton Oil Co., and none of the same have ever been returned to or made available to the Dadeville Cotton Oil Co. The Dadeville Cotton Oil Co. has repeatedly requested access to these books for the purpose of obtaining evidence necessary to substantiate its linter claim but the said Cox has consistently refused access to these books and records. Affiant is further informed and believes, and upon such information and belief avers that the books and records of the Dadeville Cotton Oil Co. insofar as they pertain to the transactions of said company between January 1, and July 31, 1919, have been either lost or destroyed.

Affiant further avers that the Dadeville Cotton Oil Co. was the only person, firm, or corporation operating under that name in Dadeville, Ala., during the years 1918-19, and that there is not now and never has been any such person, firm, or corporation engaged in the oil mill business in Dadeville by the name of Dadeville Oil & Gin Co.; that the formal claim filed with the United States Government for its linter contract was filed under the name of Dadeville Cotton Oil Co.

Affiant further avers that the Dadeville Cotton Oil Co. had on hand as of July 31, 1919, 130 bales of linters subject to be paid for under the Government contract at the rate of \$6.77 per ton of seed crushed in the production thereof.

WILLIAM GRAY.

Sworn to and subscribed before me this 11th day of October 1941.

[SEAL]

J. C. KILPATRICK, Notary Public.

STATE OF ALABAMA,  
*County of Tallapoosa.*

Before me, the undersigned authority, in and for said county in said State personally appeared H. I. Bradford who, being by me duly sworn, deposes and says as follows:

My name is H. I. Bradford; I live in Dadeville, Ala., and I was night superintendent of the Dadeville Cotton Oil Co., between January and July 31, 1919, and know of my own knowledge that during said period the Dadeville Cotton Oil Co. crushed not less than 635 tons of cotton seed.

Affiant further avers that the Dadeville Cotton Oil Co. had on hand as of July 31, 1919, 130 bales of linters subject to be paid for under the Government



contract at the rate of \$6.77 per ton of seed crushed in the production thereof. And further affiant saith not.

H. I. BRADFORD.

Sworn to and subscribed before me this 25 day of September 1941.

[SEAL]

J. C. KILPATRICK, *Notary Public.*

STATE OF ALABAMA,  
*County of Tallapoosa:*

Before me, the undersigned authority, in and for said county in said State personally appeared Walter Strother who, being by me first duly sworn, deposes and says as follows:

My name is Walter Strother and I live in Dadeville, Ala. I am over the age of 21 years. In March 1919 I was bookkeeper for the Dadeville Cotton Oil Co., and as of March 1, 1919, in my capacity as such bookkeeper made up statements as to the condition of Dadeville Cotton Oil Co., which said statements are attached to this affidavit, and by reference expressly incorporated therein and marked "Exhibit A."

I made the entries in said statement, marked "Exhibit A," on page 2 thereof which reads as follows: "Cottonseed purchased, \$95,867.69."

I also made the entries shown on page 18 of said statement which reads "170 bales linters, United States of America, \$3,772.37."

I also made the entries shown on page 18 of said exhibit A, which reads "14,912 gallons crude oil, \$19,572."

I also made the entries shown on page 2 of said exhibit A which reads as follows: "Crude-oil sales, \$50,991.50."

Affiant further avers that said statement made by him as of March 1, 1919, with respect to Dadeville Cotton Oil Co. and the entries hereinabove set forth in this affidavit are true and correct and that said statement was made up from the books of said company and represents a true and correct statement of its condition as of said date. And further affiant saith not.

WALTER STROTHER.

Sworn to and subscribed before me this 26 day of September, 1941.

[SEAL]

CLYDE FREEMAN,  
*Register Circuit Court in Equity.*

STATE OF ALABAMA, *Lee County:*

Before me, the undersigned authority, in and for said county in said State, personally appeared W. H. Knight who, by me being first duly and legally sworn, deposes and says as follows:

My name is W. H. Knight. I reside in Opelika, in said county and State. I am over the age of 21 years. I am the present superintendent of the Alabama Oil & Guano Co. of Opelika, Ala., and have been for 18 years. I have personal knowledge of the facts hereinafter deposed to.

I was superintendent of the Dadeville Cotton Oil Co. of Dadeville, Ala., from the year of 1909 to July 1, 1920. When I was superintendent of the Dadeville Cotton Oil Co., we made oil, cotton-seed meal, hulls and linters during my entire service with that company. During each season we would crush from 1,000 to 4,000 tons of seed.

In the year of 1918, we bought and placed in operation in the Dadeville Cotton & Oil Co. two new Continental linters.

I know of my own knowledge that during the period between January 1 and July 31, 1919, that the Dadeville Cotton Oil Co. crushed not less than 635 tons of cotton-seeds and that the Dadeville Cotton Oil Co. had on hand as of July 1, 1919, 130 bales or more of linters, manufactured from the seeds crushed during this time.

W. H. KNIGHT.

Sworn to and subscribed before me on this the 23rd day of September 1941.

[SEAL]

C. M. REAVES, *Notary Public.*

DADEVILLE COTTON OIL COMPANY, COMPLAINANT VS. C. T. COX AND J. H. WILLIAMS, AS SUPERINTENDENT OF BANKS, LIQUIDATING THE AFFAIRS OF THE TALLAPOOSA COUNTY BANK, A CORPORATION, RESPONDENTS

NO. 3234 IN THE CIRCUIT COURT OF TALLAPOOSA COUNTY, ALA. IN EQUITY AT DADEVILLE

This cause was submitted for final decree on the pleading and proof as noted by the register, including a stipulation of the parties as to certain facts in the case; and, the same being considered by the court, the court is of the opinion that the complainant is entitled to the relief prayed for.

It is, therefore, ordered, adjudged, decreed, and declared by the court that the respondents, C. T. Cox and J. H. Williams, as superintendent of banks liquidating the affairs of the Tallapoosa County Bank, a corporation, did not acquire, and neither of said respondents acquired, any right, title, or interest in the claim against the United States, growing out of the breach or alleged breach by the United States of a contract between the complainant and the United States, made on or about May 1, 1918, whereby the United States was to purchase of the complainant at a stipulated price all linters produced by the complainant during the remainder of the 1917-18 season and during the season beginning August 1, 1918, and ending July 31, 1919 (which claim is more particularly described in sec. 2 of the original bill in this case), under and by virtue of the decrees of this court and proceedings thereunder, heretofore made in the liquidation of the affairs of the Tallapoosa County Bank; that is, under and by virtue of (1) the decree of this court, dated September 9, 1931, (a copy of which is exhibit B to the original bill in the instant case); (2) the decree of this court, dated September 15, 1931, (a copy of which is exhibit C to the original bill in this case); (3) the decree of this court, dated September 13, 1934, (a copy of which is Exhibit G to said original bill); or (4) the conveyances, transfers, and assignments made or purported to have been made under authority of or pursuant to said decrees, that is, (a) the bill of sale executed by the Dadeville Gin Co., dated September 11, 1931, (a copy of which is exhibit D to the original bill), (b) the bill of sale purporting to have been executed by the complainant, Dadeville Cotton Oil Co., dated September 11, 1931, (a copy of which is attached to said original bill as exhibit E and to the answer of the respondent, C. T. Cox, as exhibit Q), (c) deed from J. H. Williams, as superintendent of Banks of the State of Alabama, liquidating the Tallapoosa County Bank of Dadeville, Ala., to C. T. Cox, dated November 13, 1934, (a copy of the same being exhibit N to said answer), (d) bill of sale from said superintendent of banks to C. T. Cox, dated January 23, 1936, (a copy of which is exhibit O to said answer) and (e) bill of sale from said superintendent of banks to C. T. Cox, dated January 25, 1936 (a copy of which is exhibit P to said answer).

It is further ordered, adjudged, decreed, and declared that as between the parties to this suit said claim belongs to the complainant, and that the respondents have no right or authority under the color of said decrees of this court or under said deeds, assignments, or transfers made by the superintendent of banks while liquidating the affairs of the Tallapoosa County Bank under the jurisdiction of this court, to undertake the collection of said claim against the United States, and the said respondents and each of them and their agents, servants, employees, or representatives are forever enjoined and restrained from asserting any title or claim to said claim or suit against the United States. The register of this court is ordered and directed to issue the writ of injunction of this court, directed to the said respondents, their agents, servants, employees, or representatives, restraining and enjoining them and each of them as aforesaid.

It is further adjudged and decreed that the complainant, Dadeville Cotton Oil Co., have and recover of the respondent, C. T. Cox, the costs of this suit, for which let execution issue.

Done this 23d day of January 1937.

W. B. BOWLING, Judge.

#### CERTIFICATE

STATE OF ALABAMA,  
County of Tallapoosa:

I, Clyde Freeman, register of the Circuit Court of Tallapoosa County, Ala., in equity, do hereby certify that the foregoing is a true and correct exemplification and transcript of the final decree of said court entered in that certain cause pending in said court entitled, "Dadeville Cotton Oil Co., complainants, v. C. T.

*Cox, et al. respondents*, No. 3234," said decree being entered on January 23, 1937, as the same appears of record in the minutes of said court, in my office.

Witness my hand and the seal of the said court all on this 27th day of September 1941.

[SEAL]

CLYDE FREEMAN, *Register*.

MRS. MARILLA C. GRAY, PLAINTIFF, *v.* DADEVILLE COTTON OIL COMPANY,  
DEFENDANT

IN THE CIRCUIT COURT OF TALLAPOOSA COUNTY, ALA., IN EQUITY AT DADEVILLE

To the honorable judges of the Fifth Judicial Circuit of Alabama, having and exercising equity jurisdiction in the circuit court of Tallapoosa County, at Dadeville:

The plaintiff, Mrs. Marilla C. Gray, respectfully shows unto this Honorable Court as follows:

1. The plaintiff is over the age of 21 years and resides at Dadeville, Tallapoosa County, Ala. The defendant is a corporation incorporated in Tallapoosa County, Ala., and is also referred to locally as Dadeville Oil & Gin Co., although its true name is as stated.

2. In the month of March 1919 the defendant was indebted to William Gray, the husband of the plaintiff, hereinafter referred to as William Gray, Sr., in the sum of \$12,645.04, and in order to secure the payment of said indebtedness executed its mortgage to William Gray, Sr., a copy of which is hereto attached and made a part of this bill as exhibit A. Said mortgage included 160 bales of linters then stored at the defendant's plant in Dadeville, Ala., and also all other products of every kind and description which the defendant then had on hand or owned or might have an interest in before the debt was paid in full.

3. On or about May 1, 1918, the United States of America, through the agency of the United States Ordnance Department through the duPont American Industries, entered into a contract with the defendant whereby the United States Government was to purchase of the defendant and the defendant was to sell to the Government, or a designated agency of the Government, at a stipulated price, all linters produced by the defendant during the remainder of the 1917-18 season and during the season beginning August 1, 1918, and ending July 31, 1919, and said contract further provided that all linters were to be manufactured munition type and not commercial type. This contract was, by its terms, subject to cancellation upon the "termination of the present war." After the armistice of November 11, 1918; that is, on or about December 30, 1918, the United States Government attempted to cancel said linter contract with the defendant. After the attempted cancellation of said contract the Government declined to take the munition linters produced by defendant during the period from January 1, 1919, to July 31, 1919. The claim of the defendant, based on the above statement of fact, was in the sum of \$4,298.95. On March 3, 1923, the Senate of the United States adopted a resolution referring the claim of the defendant and the claims of others against the Government to the Court of Claims. On December 20, 1937, the claim of the defendant was dismissed out of the Court of Claims for want of prosecution.

4. The 160 bales of linters described in the mortgage (exhibit A hereto), constituted the linters which are the basis of the foregoing claim of the defendant against the Government. William Gray, Sr., advanced the money which was secured by said mortgage on the faith of said contract with the Government and the value of said linters based upon said contract. The terms of said mortgage describing said linters and, "also all other products of every kind and description which we (the defendant) now have on hand or own or may have an interest in before this debt is paid in full," were intended by the parties to said instrument, the defendant and William Gray, Sr., to include and in fact did include said Government contract and operated as an equitable assignment of said contract to William Gray, Sr., to secure said indebtedness.

5. On August 12, 1921, William Gray, Sr., died and the plaintiff became the executrix of his will under nomination in the will and by appointment of the Probate Court of Tallapoosa County, Ala. Thereafter, the plaintiff, as executrix aforesaid, proceeded with the foreclosure of said mortgage as provided by its terms and through her attorney and auctioneer, D. W. Crawford, foreclosed said mortgage by sale had at the courthouse door of Tallapoosa County, Ala., at Dadeville, on August 21, 1922. William Gray, Jr., became the purchaser of all the property and assets included in said mortgage as above set out, and thereafter,



on, to wit, August 22, 1922, for valuable consideration, transferred and assigned the same to the plaintiff.

6. Whereafter the defendant did not operate any business in Dadeville, Ala., and the plaintiff was the owner of all the former assets of said corporation, except real estate and physical assets of said corporation which were included in another mortgage from defendant to William Gray, Sr., which is recorded in the office of the judge of probate of Tallapoosa County, Ala., in Records of Mortgages, volume 169, page 456.

7. In furtherance of her said linter claim, on or about the 9th day of January 1942, the Honorable Lister Hill, a Member of the United States Senate and the Honorable Joe Starnes, a Member of the House of Representatives, introduced in Congress a bill for the relief of the plaintiff, the same, in each instance, being as follows:

"A BILL For the relief of Mrs. Marilla C. Gray

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated to Mrs. Marilla C. Gray, of Dadeville, Alabama, as successor in interest to the Dadeville Cotton Oil Company, of Dadeville, Alabama, the sum of \$4,298.95, in full satisfaction of all claims against the United States for compensation for the production of cotton linters produced by said company during the period January 1, 1919, to July 31, 1919, inclusive, pursuant to a contract with DuPont American Industries, agent of the United States Ordnance Department, Provided That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000."*

8. Since the introduction of said bill in Congress the question has arisen as to the manner in which the plaintiff became the successor in title to the said linter claim and it is necessary to have said foreclosure sale confirmed by this court and the title to said linter claim adjudicated to be in the plaintiff. Notwithstanding the fact that the plaintiff is the owner of said linter claim and is the successor in interest of said claim, the defendant by its action in continuing to press said claim in its own name after the plaintiff had become the owner thereof, has cast a cloud upon the ownership of the plaintiff and has asserted, and the plaintiff avers that she is informed that the defendant is still asserting, some title or interest in said linter claim, which the plaintiff denies. The plaintiff therefore avers that there is a justiciable controversy now existing between the plaintiff and the defendant as to the ownership of said linter claim, which the plaintiff is entitled to have adjudicated and settled between the parties under the Alabama Declaratory Judgment Act.

The premises considered, plaintiff prays that Dadeville Cotton Oil Co., a corporation be made a party defendant to this suit and that summons of this court issue to it requiring it to plead, answer, or demur to this bill under the penalties provided by statute and the rules of this honorable court. Plaintiff further prays that upon the final hearing of this bill the court will adjudge and decree that the plaintiff is the sole owner of said linter claim and the successor in interest of the defendant in and to said claim. And plaintiff further prays that if she is mistaken in her special prayer for relief, then she prays for such other, further, and additional relief as she may be entitled to in the premises, and to that end plaintiff submits herself to the general jurisdiction of this court and offers to do equity. And plaintiff will ever pray, etc.

SAM W. OLIVER,  
Attorney for the Plaintiff.

Filed in office March 13, 1942.

CLYDE FREEMAN, Register.

DADEVILLE, ALA., March 31, 1919.

On July 1, 1919, after date, without grace, we promise to pay to the order of William Gray, Dadeville, Ala., \$12,645.04, for value received, in gold coin of the United States of the present standard of weight and fineness, with interest from maturity. Payable at Tallapoosa County Bank, Dadeville, Ala.

There has been deposited and pledged as collateral security for the payment of this note, or any other liability or liabilities of the undersigned to the owner

thereof, whether the same be now existing or hereafter contracted, now due or hereafter to become due, the following property, to wit:

"About 16,000 gallons of cottonseed oil, 160 bales linters now stored at our plant in Dadeville, Ala. Also all other products of every kind and description which we now have on hand or own or may have an interest in before this debt is paid in full.

"This note is secured by a mortgage recorded in volume 169, at page 456, Record of Mortgages of Tallapoosa County, Ala."

and full power and authority is hereby granted to sell, assign, or deliver the whole or any part thereof, or any substitute therefor, or any addition thereto, at public or private sale, at the option of the owner or holder of this note, his, their, or its assigns, on the nonperformance of this promise, or nonpayment of any of the liabilities above-named, at any time or times thereafter, without advertisement or notice, which is hereby expressly waived, and at such sales the owner or holder of this note may purchase the whole or any part of said securities discharged from any right of redemption, or liability for conversion. In case of depreciation in the market value of the securities hereby pledged, or that may hereinafter be pledged for the payment of this note, or if from any cause whatever said securities pledged shall cease to be satisfactory collateral to the owner or holder of this note for this debt, its renewal or substitute the undersigned hereby agrees to deposit additional security from time to time, as demanded, and failing to deposit additional security to the satisfaction of the owner or holder, hereof, this note shall become due and payable for all purposes, and a sale of the collateral pledged may be made immediately as provided for above. The owner or holder of this debt may buy any of said collateral at private sale, with or without notice, at the market price, and if there is no market price, then at its value; and the proceeds of any such sales shall be applied first to the payment of the expenses of making such sale, together with a reasonable attorney's fee, if an attorney is employed, or consulted. Second, to the payment of the principal debt hereby secured and the interest thereon; third, to the payment of any other debt which the undersigned may now or hereafter owe the owner or holder of this note either as principal, surety, endorser, or otherwise, and if any surplus remains, the same shall be paid to the undersigned.

The parties to this instrument, whether maker, endorser, surety or guarantor, each for himself, hereby severally waive as to this debt, or any renewal thereof, all right to exemption under the Constitution and Laws of Alabama, as to personal property, and they each severally agree to pay all costs of collecting, or securing, or attempting to collect or secure this note, including a reasonable attorney's fee, whether the same be collected or secured by suits or otherwise. And the maker, endorser, surety or guarantor, of this note severally waives demand, presentment, protest, notice of protest, suit and all other requirements necessary to hold them, and they agree that time of payment may be extended without notice to them of such extension. The bank at which this note is payable is hereby authorized to apply on or after maturity, to the payment of this debt any fund in said bank belonging to the maker, surety, endorser, guarantor, or any one of them.

DADEVILLE COTTON OIL CO.  
By: W. C. STONE.

MRS. MARILLA C. GRAY, PLAINTIFF v. DADEVILLE COTTON OIL COMPANY, A CORPORATION, DEFENDANT

IN THE CIRCUIT COURT OF TALLAPOOSA COUNTY, ALABAMA, IN EQUITY AT DADEVILLE

Comes now the defendant, Dadeville Cotton Oil Co., a corporation, and for answer to the bill of complaint in this cause says: (1) The defendant admits the averments of section 1; (2) the defendant admits the averments of section 2; (3) the defendant admits the averments of section 3; (4) the defendant admits the averments of fact but denies the conclusions and construction given to said mortgage and particularly denies that the mortgage included or was intended to include an assignment of said Government contract; (5) the averments of section 5 of the bill are admitted; (6) the averments of section 6 are admitted; (7) the averments of section 7 of the bill are admitted; (8) the defendant admits that the question and controversy have arisen between the plaintiff and defendant as alleged in

section 8 of the bill and denies that the plaintiff is the owner of said linter claim and is the successor in interest of this defendant in and to said claim.

JACOB A. WALKER,  
*Attorney for defendant.*

Filed in office March 14, 1942.

CLYDE FREEMAN, *Register.*

MRS. MARILLA C. GRAY, PLAINTIFF *v.* DADEVILLE COTTON OIL COMPANY,  
A CORPORATION, DEFENDANT

IN THE CIRCUIT COURT OF TALLAPOOSA COUNTY, ALA., IN EQUITY AT DADEVILLE—  
FINAL DECREE

This cause coming on to be heard on pleadings of the parties and testimony taken orally before the court, all as noted by the register, and the same being considered by the court, it is ordered, adjudged and decreed by the court that the plaintiff, Mrs. Marilla C. Gray, is entitled to the relief prayed for in her bill of complaint.

It is further ordered, adjudged and decreed that the plaintiff, Mrs. Marilla C. Gray is the owner of and is the successor in interest of the defendant in and to that certain linter claim which the defendant Dadeville Cotton Oil Co., a corporation, heretofore had against the Government of the United States of America; said claim being for compensation for the production of cotton linters produced by said defendant during the period January 1, 1919, to July 31, 1919, inclusive, pursuant to a contract with DuPont American Industries, agent of the United States Ordnance Department. The court makes no adjudication as to the validity of said claim.

The costs in this cause are hereby taxed against the plaintiff for which execution may issue.

Made this the 18th day of March 1942.

ALBERT HOOTON,  
*Judge of the Fifth Judicial Circuit of Alabama.*

Filed and enrolled March 18, 1942.

CLYDE FREEMAN, *Register.*

STATE OF ALABAMA,  
*County of Tallapoosa:*

I, Clyde Freeman, register of the circuit court of Tallapoosa County, Ala., in equity, do hereby certify that the foregoing transcript of proceedings in the case of *Mrs. Marilla C. Gray, plaintiff, v. Dadeville Cotton Oil Co., a corporation, defendant*, from page 1 to page 7, inclusive, contains a true and correct transcript of the original bill of complaint of the plaintiff, the answer of the defendant, and the final decree of the court, all in said cause in the circuit court of Tallapoosa County, Ala., in equity, of which I am the keeper of the records, in said cause, as said proceedings and said final decree now appear of record and on file in the office of the said register of the said court for the said county and State; and I certify that as such register I am the custodian and keeper of the records of the files of said court for said county and State and of the seal of said court and that the seal hereunto affixed is the seal of said court.

In witness whereof I have hereunto set my hand and the seal of said court in the city of Dadeville, Tallapoosa County, Ala., this the 24th day of March 1942.

[SEAL]

CLYDE FREEMAN,  
*Register of the Circuit Court of Tallapoosa County, Ala., in Equity.*

STATE OF ALABAMA,  
*Tallapoosa County:*

I, Albert Hooton, judge of the Circuit Court of Tallapoosa County, Ala., in equity, do hereby certify that Clyde Freeman, whose name is signed to the foregoing certificate, is known to me and is the register of the Circuit Court of Tallapoosa County, Ala., in equity, duly appointed and sworn, and is the keeper of the records, files, and proceedings of said court for said county and State, and is by



law the proper person to make out and certify copies of all the records and proceedings of said court, and that full faith and credit is and ought to be given to her official acts. I further certify that the seal affixed to her exemplification and transcript is the seal of said Court and that the attestation of said register to said transcript is in due form.

This the 24th day of March 1942.

ALBERT HOOTON,

*Judge of the Circuit Court of Tallapoosa County, Ala., in Equity.*

